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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,111	11/21/2003	James E. Darnton	US20020289	1912

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EXAMINER	
HENRY, RODNEY M	

ART UNIT	PAPER NUMBER
3622	

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01/14/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/719,111	DARNTON ET AL.	
	Examiner	Art Unit	
	RODNEY M. HENRY	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 December 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) *14,16,17 and 23* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13,15,18-22,24 and 25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *21 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The following is a final office action in response to communications received December 23, 2008, 2008. Claims 14, 16, 17, and 23 have been canceled. Claims 1, 8, 15, and 21 have been amended. Claims 1-13, 15, 18-22, 24, and 25, are currently pending and have been considered below.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claims 1, 8, 15, and 21, as best understood, it appears that the claimed method steps are not statutory. Based on Supreme Court precedent [1] and Federal Circuit decisions a §101 process must

(1) be tied to another statutory class (such as a particular apparatus) or

(2) transform underlying subject matter (such as an article or materials) to a different state or thing. [2]

The independent claims are directed towards steps of "creating", "providing", "incorporating", and "designing". Since the claims are directed to a process without

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[1] *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S, 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S, 63, 70 (197); *Cochrane v. Deener*, 94 U.S, 780, 787-88 (1876).

[2] The Supreme Court recognized that this test is not necessarily fixed or permanenet and may evolve with technological advance. *Gottschalk v. Benson*, 409 U.S 63, 71 (1972).

including another statutory class of invention (manufacture, machine, composition of matter), these claims are non-statutory.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-10, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett (US 5,330,261), in view of Crisp, III (US 6,751,525), and further in view of Sharood et al. (US 2002/0000092).

As per claim 1, Bennett discloses a method of creating a sponsored appliance comprising the steps of:

b. incorporating sponsorship material into the appliance (See FIG. 1, ABC Cola).

Bennett does not disclose a. creating a sponsored relationship between an appliance sponsor and an appliance seller wherein the sponsor acquires from the appliance seller an exclusive right to associate a brand with at least on e portion of the appliance.

However Crisp III et al. discloses:

a. creating a sponsored relationship between an appliance sponsor and an appliance seller wherein the sponsor acquires from the appliance seller an exclusive right to associate a brand with at least on e portion of the appliance (See col 6, lines 5-14, and FIG. 3A).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add a sponsored relationship between a refrigerator sponsor and a refrigerator seller to the system of Bennett in order to make the refrigerator a sponsored appliance which can provide the consumer with selections of their choices as well as incentives from the sponsor and or seller.

Bennett does not disclose c. providing a purchase incentive for the sponsored appliance as a result of the sponsorship.

However, Sharood et al. discloses

c. providing a purchase incentive for the sponsored appliance as a result of the sponsorship (see paragraph 0229 via coupons).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add providing a purchase incentive for the sponsored appliance as a result of the sponsorship to the system of Bennett in order to further decrease the price of the appliance to the customer over time, for example, home use vending machines.

As per claims 2, and 9, Bennett discloses the sponsorship material comprises at least one of the following:
printed advertisement or healthy habits message (See FIG. 1, printed advertisement (Sale)).

As per claims 3 and 10, Bennett discloses the step of providing a predetermined location for the sponsorship material (See FIG. 1, cola sponsorship material next to the cola cans).

As per claim 4, Bennett discloses the predetermined location is configured to accommodate only the product packaged by the sponsor (See FIG. 1, ABC cola).

As per claim 5, Bennett discloses the sponsorship material is configured to be interchangeable in one or more predetermined locations in the appliance (See FIG. 1 and col2 lines 13-15).

As per claims 6 and 12, Bennett discloses the sponsored appliance is a refrigerator (See FIG. 1).

As per claim 7, Bennett discloses incorporating modules which cooperate with a particular packaging design of the sponsor into the appliance (see FIGS. 1 and 9, cutouts for the sponsored cola cans).

As per claim 8, Bennett discloses a method of creating a sponsored appliance comprising the steps of:

b. providing a consumer with sponsorship material indicating the appliance is sponsored by the appliance sponsor and configured to be placed in the appliance to form a sponsored appliance (See FIG. 1).

Bennett does not disclose a. creating a sponsored relationship between an appliance sponsor and an appliance seller wherein the sponsor acquires from the appliance seller an exclusive right to associate a brand with at least on e portion of the appliance.

However Crisp III et al. discloses:

a. creating a sponsored relationship between an appliance sponsor and an appliance seller wherein the sponsor acquires from the appliance seller an exclusive right to associate a brand with at least on e portion of the appliance (See col 6, lines 5-14, and FIG. 3A).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add a sponsored relationship between a refrigerator sponsor and a refrigerator seller to the system of Bennett in order to make the refrigerator a sponsored appliance which can provide the consumer with selections of their choices as well as incentives from the sponsor and or seller.

Bennett does not disclose c. providing the consumer with an incentive to accept the sponsorship material.

However, Sharood et al. discloses providing the consumer with an incentive to accept the sponsorship material (see paragraph 0229 via coupons).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add providing a purchase incentive for the sponsored appliance as a result of the sponsorship to the system of Bennett in order to further decrease the price of the appliance to the customer over time, for example, home use vending machines or other appliances such as washing machines.

As per claim 14, Bennett does not discloses the purchase incentive comprises a direct or an indirect incentive.

However, Sharood et al. discloses the purchase incentive comprises a direct or an indirect incentive (see paragraph 0229 via coupons).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add providing a purchase incentive for the sponsored appliance as a result of the sponsorship to the system of Bennett in order to further decrease the price of the appliance to the customer over time, for example, home use vending machines or other appliances such as washing machines.

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett (US 5,330,261), in view of Baker et al. (5,437,503).

As per claim 11, Bennett does not disclose incorporating modules which cooperate with a particular packaging design of the sponsor into the appliance.

However Baker et al. discloses modules which cooperate with a particular packaging design of the sponsor into the appliance (See column 2, lines 27-30, which discusses the movable shelves or bins 15 on the inside of the door as shown in FIG. 1, which provide for storing additional items).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add modules which cooperate with a particular packaging design of the sponsor into the appliance to the system of Bennett in order to accommodate the changing packaging needs of manufacturers or the changing bulk size purchases of the user.

5. Claims 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roh et al. (US 6,393,848), in vie of Crisp III (US 6,751,525), and further in view of Sharood et al. (US 2002/0000092).

As per claim 15, Roh et al. discloses a method of sponsoring a healthy refrigerator

b. incorporating a healthy habits message sponsor by the refrigerator sponsor into the refrigerator to form a sponsored refrigerator, whereby, a consumer is reminded of the healthy habit message with every use of the refrigerator (see FIG. 8, and the health tip on apples along with its nutritional information, one the front door of the refrigerator (visible every time, always on or with the push of a finger)).

Roh el al. does not disclose:

Bennett does not disclose a. creating a sponsored relationship between an appliance sponsor and an appliance seller wherein the sponsor acquires from the appliance seller an exclusive right to associate a brand with at least on e portion of the appliance.

However Crisp III et al. discloses:

a. creating a sponsored relationship between an appliance sponsor and an appliance seller wherein the sponsor acquires from the appliance seller an exclusive right to associate a brand with at least on e portion of the appliance (See col 6, lines 5-14, and FIG. 3A).

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to add a sponsored relationship between a refrigerator sponsor and a refrigerator seller to the system of Roh et al. in order to make the refrigerator a sponsored appliance which can provide the consumer with selections of their choices as well as incentives from the sponsor and or seller.

6. Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roh et al. (US 6,393,848), in view of Sharood et al. (US 2002/0000092).

As per claim 16, Roh et al. does not disclose providing the refrigerator with purchase incentive as a result of the sponsorship.

However, Sharood et al. discloses providing a purchase incentive for the refrigerator as a result of the sponsorship (subsidy) (see paragraph 0229 via coupons for Woolite (a washing machine appliance, could have been coupons for RFID tags on products in a refrigerator (see FIG. 26B)).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add providing a purchase incentive for the refrigerator as a result of the sponsorship to the system of Bennett in order to further decrease the price of the refrigerator to the customer over time.

As per claim 17, Roh et al. does not discloses the purchase incentive comprises a direct or an indirect incentive.

However, Sharood et al. discloses the purchase incentive comprises a direct or an indirect incentive (see paragraph 0229 via coupons).

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to add providing a purchase incentive for the sponsored appliance as a result of the sponsorship to the system of Roh et al. in order to further decrease the price of the appliance to the customer over time.

As per claim 18, Roh et al. discloses the healthy habits message is configured to be placed in the refrigerator at a location desired by consumers (See FIG. 8, and col 4 lines 6-7, which discusses "an" outer wall. i.e. the front or either side, thereby giving the customer their desired choice).

As per claim 19, Roh et al. discloses the healthy habits message is configured to be placed in a predetermined location in the refrigerator (See FIG. 1, the LCD 120 and FIG. 8).

As per claim 20, Roh et al. discloses the healthy habits message is configured to be placed in a predetermined location is on the side of the refrigerator at about eye-level for allowing easy visibility to the consumer (See FIG. 8, and col 4 lines 6-7, which discusses "an" outer wall. i.e. the front or either side).

7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roh et al. (US 6,393,848), in view of Crisp III (US 6,751,525), and further in view of Sharood et al. (US 2002/0000092).

As per claim 21, Roh et al. discloses a method of sponsoring a healthy refrigerator comprising the steps of:

b. designing the refrigerator for allowing healthy foods to be more easily seen and accessed (see FIGS. 9, and 10, and column 6, lines 24-31)

Roh el al. does not disclose:

Bennett does not disclose a. creating a sponsored relationship between an appliance sponsor and an appliance seller wherein the sponsor acquires from the appliance seller an exclusive right to associate a brand with at least on e portion of the appliance.

However Crisp III et al. discloses:

a. creating a sponsored relationship between an appliance sponsor and an appliance seller wherein the sponsor acquires from the appliance seller an exclusive right to associate a brand with at least on e portion of the appliance (See col 6, lines 5-14, and FIG. 3A).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add a sponsored relationship between a refrigerator sponsor and a refrigerator seller to the system of Roh et al. in order to make the refrigerator a sponsored appliance which can provide the consumer with selections of their choices as well as incentives from the sponsor and or seller.

Roh et al. does not disclose c. providing a purchase incentive for the sponsored appliance as a result of the sponsorship to from a sponsored refrigerator.

However, Sharood et al. discloses

c. providing a purchase incentive for the sponsored appliance as a result of the sponsorship to form a sponsored refrigerator (see paragraph 0229 via coupons).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add providing a purchase incentive for the sponsored appliance as a result of the sponsorship to the system of Roh et al. in order

to further decrease the price of the appliance to the customer over time, for example, home use vending machines.

whereby, a consumer is reminded to eat healthy foods with every use of the refrigerator (see FIG. 8, apple nutritional information and tip).

8. Claims 22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roh et al. (US 6,393,848), in view of Crisp III (US 6,751,525), and further in view of Sharood et al. (US 2002/0000092), and further in view of Bennett (US 5,330,261).

As per claim 22, Roh et al. and Sharood et al. do not disclose modules which cooperate with a particular packaging design of the sponsor into the appliance.

However Bennett discloses modules which cooperate with a particular packaging design of the sponsor into the appliance (see FIGS. 1 and 9, cutouts for the sponsored cola cans).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add modules which cooperate with a particular packaging design of the sponsor into the appliance to the system of Roh et al. and Sharood et al. in order to further make the refrigerator ergonomically designed to meet the customer and the sponsor's needs.

As per claim 24, Roh et al. discloses the modules are configured to house healthy foods and are designed to be positioned in the refrigerator in a place easily seen and accessed by a consumer (see FIGS. 9 and 10).

9. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roh et al. (US 6,393,848), in view of Crisp III (US 6,751,525), and further in view of Sharood et al. (US 2002/0000092), and further in view of Bennett (US 5,330,261), and Mandel (US 6,932,450), and Baker et al. (5,437,503).

As per claim 25, Roh et al., Sharood et al. and Bennett do not disclose modules are interchangeable in varies parts of the refrigerator to allow a consumer to design the layout of the refrigerator.

However Baker et al. discloses modules are interchangeable in varies parts of the refrigerator to allow a consumer to design the layout of the refrigerator (See column 1, lines 27-30, and col 2, lies 27-30 which discusses the movable shelves 16 or bins 15 on the inside of the door as shown in FIG. 1, both of which allow the consumer to design the layout to their specific preferences).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add consumer designed layout of the refrigerator to the system of Roh et al. , Sharood et al. and Bennett in order to accommodate the changing storage needs of consumers or the changing bulk size purchases of the consumers.

Response to Arguments

The applicant's arguments are moot in light of the new grounds of rejection above.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Henry whose telephone number is 571-270-5102. The examiner can normally be reached on Tuesday through Friday from 7:30am to 7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached 570-272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rmh

/Arthur Duran/

Primary Examiner, Art Unit 3622